

REMARKS

No amendments are being made to the claims.

Claims 1-27 are pending. Claims 1 and 27 are the independent claims.

Claims 1-27 stand rejected as allegedly obvious over the prior art described in the background of the application further in view of U.S. Patent No. 5,038,356 ("Botez") or U.S. Patent No. 5,854,088 ("Plais") and U.S. Patent No. 6,239,033 ("Kawai").

The Action concedes that the prior art described in the application does not disclose a "transmissive window having at least one void selected from the group consisting of a trench recess and a pit recess formed therein for increasing coupling out of radiation from said window."¹ (Action at page 3.) However, the action alleges that: "Both Botez and Plais teach a method of making surface emitting devices and increasing the light emission by forming vias, at angle different from 980 degrees [sic], in the substrate (see fig. 1 in Botez and fig. 10 in Plais). It would have been obvious to one of ordinary skill in the art to form vias in the substrate to increase the efficiency." (Action at pages 3-4.) We disagree.

Botez and Plais each relate to vertical cavity surface emitting lasers. While they each disclose etching a portion of a substrate (see substrate 10 in Fig. 1 of Botez and substrate 1 in Fig. 10 of Plais), they do so not to increase coupling-out of radiation, but to provide a recess for forming a highly reflective mirror, specifically the output coupler of the laser. See, for example, dielectric stack 42 in Fig. 1 of Botez (which is described as having a reflectivity of 95% at col. 5, lines 12-13) and bottom mirror MI in Fig. 10 of Plais. Moreover, in both Botez and Plais the entire thickness of the substrate is etched away to form the recess.

Accordingly, there is no motivation to modify the prior art described the background of the application to have the claimed recess based on Botez or Plais. Specifically, the action is incorrect in alleging that Botez and Plais form a recess to increase light emission. To the

¹ For example, independent claim 1 recites "said second main surface [of the radiation-transmissive window] having at least one void selected from the group consisting of a trench recess and a pit recess formed therein for increasing a coupling-out of radiation from said window," among other limitations.

contrary, they form a recess so that they can introduce a mirror, which, if anything, decreases light emission.

Moreover, even if one were to try to modify the prior art structure based on the teachings of Botez and Plais, such teachings must also include forming the mirror in the recess. The mirror would render the prior art structure described in the background of the application unsuitable for its intended purpose because the mirror would block light, including light incident at normal or near-normal angles. Accordingly, the proposed modification and the alleged prima facie case of obviousness must fail.

In view of the above, we ask the Examiner to withdraw the obviousness rejection of claims 1-27.

Furthermore, with respect to independent claim 27, we point out that in both Botez and Plais, the entire thickness of the substrate is etched away to form the recess. Therefore, even if (for the sake of argument only) the proposed combination was correct (which we dispute as explained above), the resulting combination would not disclose a "recess [that] extends only partially through the window," as required by independent claim 27. This is yet another reason why the rejection with respect to independent claim 27 should be withdrawn.

In view of the above, we ask that the application be allowed.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Applicant : Johannes Baur et al.
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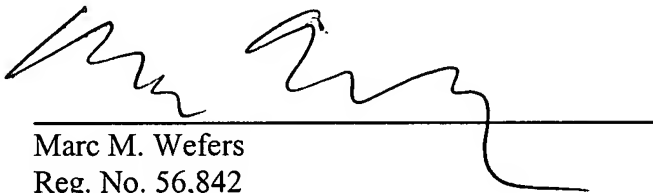
An information disclosure statement is being filed together with this Reply.

Please apply any charges or credits to deposit account 06-1050, referencing 12406-118US1.

Respectfully submitted,

Date: _____

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